

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CV-22538-ALTMAN/REID

DOMINIK KARNAS, *et al.*,

Plaintiffs,

v.

MARK CUBAN, *et al.*,

Defendants.

**DEFENDANTS MARK CUBAN’S AND DALLAS BASKETBALL LIMITED d/b/a
DALLAS MAVERICKS’ NOTICE OF SUPPLEMENTAL AUTHORITY REGARDING
DEFENDANTS’ MOTION TO EXCLUDE EXPERT REPORT AND TESTIMONY OF
LEE REINERS [ECF NO. 253]**

Pursuant to S.D. Fla. Local Rule 7.8, Defendants MARK CUBAN and DALLAS BASKETBALL LIMITED d/b/a DALLAS MAVERICKS submit this Notice of Supplemental Authority concerning a recent decision (the “Decision,” attached as Ex. 1) entered by the Honorable Federico A. Moreno of the Southern District of Florida in *Harper v. O’Neal et al.*, 23-121912-CIV-MORENO (“*Harper*”), ECF No. 92 (S.D. Fla. Aug. 16, 2024), as follows:

In *Harper*, Judge Moreno granted a motion to strike portions of Professor Lee Reiners’ expert report containing legal conclusions concerning whether certain assets/NFTs qualify as investment contracts under federal law. Judge Moreno struck Professor Reiners’ expert testimony reasoning that an “expert may not ‘testify’ about legal opinions, because that would usurp the court’s role and could confuse the jury.” Decision at 1 (citing *In re Rosenberg*, 2012 WL 3870351, at *2 (S.D. Fla. Bankr. 2012)).

Plaintiffs here also submitted an “expert report” from the same professor that reaches nearly identical conclusions as to the assets at issue in this case. *Compare Harper*, ECF No. 24-1 at 2 (“the facts and circumstances surrounding the offer and sale of Astrals and the Galaxy token support the elements of an investment contract according to the *Howey* test . . .”) with *Karnas*, ECF No. 253-1 at 2 (“the facts and circumstances surrounding all offers and sales of EPAs and VGX support the elements of an investment contract according to the *Howey* test . . .”).

Respectfully, this Court should exclude Professor Reiners' report for the same reasons, and as set forth in Defendants' Motion to Exclude [ECF No. 253] at 5-7.

Date: August 20, 2024

Respectfully submitted,

/s/ Christopher E. Knight

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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2024, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via the Court's CM/ECF which will send notification of such filing to all attorneys of record.

/s/ Christopher E. Knight

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